



The Telecommunications and Information
Technology Association for Utilities, Pipelines,
And Other Critical Infrastructure Companies

July 1, 2002

Thomas Sugrue
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, N.W.
Washington, D.C. 20554

Ex Parte

Re: RM-10403

Dear Mr. Sugrue:

UTC hereby submits the following written ex parte pursuant to Section 1.1206 of the Commission's Rules. UTC opposes the petition for rulemaking filed by Progeny LMS, LLC in the above-referenced proceeding ("Progeny petition"). The Progeny petition seeks to revise the rules for Location and Monitoring Service ("LMS") in the 902-928 MHz band to eliminate (1) the spectrum cap in order to allow a single licensee to hold all of the LMS licenses in an EA; (2) the restriction on real-time interconnection with the public switched telephone network (PSTN); (3) the restriction on types of communications or services that LMS operators may provide; and (4) the "safe harbor" provision that creates a presumption of non-interference for secondary users of the band.

UTC echoes the concerns expressed in the comments and reply comments of Itron, Inc. that Part 15 devices in the 902-928 MHz band would likely receive harmful interference from LMS if the Commission adopts the proposals in the Progeny petition. The Commission decided that it was in the public interest to protect Part 15 devices that make productive use of the 902-928 MHz band when it promulgated the LMS rules.¹ Eliminating the safe harbor provision and permitting real-time interconnect would remove the very provisions designed to protect these Part 15 devices. Moreover, Progeny does not dispel those concerns, either in its petition or its comments and reply comments.²

UTC notes that Telesaurus has filed comments and reply comments in which it reports that it will be filing a counter petition designed to maximize the LMS for Critical Infrastructure.³ UTC looks forward to this petition, and suggests that the Commission defer action on the Progeny petition until such time as the Telesaurus petition has been filed and the public has had an opportunity to consider the proposals therein.

Given the apparent threat of interference to Part 15 devices, it would be inappropriate to provide the speculative relief sought by Progeny, particularly when the public has not had an opportunity to

¹ *Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, Report and Order, 10 FCC Rcd 4695 (1995).

² Progeny merely offers unsupported and vague assertions that power and duty-cycle limits will protect "secondary" uses in the band, such as Part 15 devices. See Progeny petition at 28.

³ Reply Comments of Warren C. Havens and Telesaurus Holdings GB, LLC in RM-10403 at 6, n. 6 (filed June 3, 2002).

consider the alternative proposal by Telesaurus. Therefore, UTC urges the Commission to deny the Progeny petition, or in the alternative to defer action until such time as alternative proposals have been adequately considered on the record.

Very truly yours,

Brett Kilbourne

Brett Kilbourne
Director of Regulatory Services & Associate Counsel